

# **EXHIBIT 3a**

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THOMAS A. WILDER  
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DARYOUSH TOOFANIAN, ESQ.  
BAR NO. 24039801  
RAD LAW FIRM  
8001 LBJ FWY, SUITE 300  
DALLAS, TEXAS 75251  
PH: 972-661-1111  
FAX: 972-661-3537

352-325822-21

CAUSE NO. \_\_\_\_\_

ELIDIO NAVA,  
PLAINTIFF,

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§

IN THE DISTRICT COURT

V.  
THE BOEING COMPANY AND  
DAVID MARC BINNIX,  
DEFENDANTS.

\_\_\_\_\_ JUDICIAL DISTRICT

TARRANT COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE:

NOW COMES ELIDIO NAVA complaining of and against THE BOEING COMPANY and DAVID MARC BINNIX, Defendants, and for cause of action would respectfully show the Court the following:

**I. DISCOVERY CONTROL PLAN LEVEL and EXPEDITED ACTIONS STATEMENT**

1.01 Pursuant to Texas Rules of Civil Procedure Rule 190.3, Plaintiff requests that discovery be conducted in accordance with Discovery Control Plan-Level 3.

1.02 Plaintiff seeks damages in excess of one million dollars.

**II. JURISDICTION AND VENUE**

2.01 This Court has jurisdiction and venue over the parties and subject matter of these claims because the amount in controversy is within the jurisdictional limits of this Court, and when the events giving rise to the collision occurred in Tarrant County.

**III. PARTIES AND SERVICE**

3.01 Plaintiff is an individual residing in Tarrant County, Texas.

3.02 Defendant, **THE BOEING COMPANY**, is a foreign corporation organized and existing under the laws of the State of Delaware who may be served with citation through its registered agent CORPORATION SERVICE COMPANY D B A + at its registered address 211 E. 7TH STREET SUITE 620 AUSTIN, TX 78701.

3.03 Defendant **DAVID MARC BINNIX**, is an individual who is a nonresident of the State of Texas and is a citizen of the State of Utah. Defendant DAVID MARC BINNIX usual place of abode is 4277 LAKEVIEW DR, OGDEN, UT 84403-3219. Pursuant to Texas Civil Practice & Remedies Code § 17.062(a), he may be served with process by serving the CHAIRMAN OF THE TEXAS TRANSPORTATION COMMISSION AT 125 E. 11<sup>TH</sup> STREET, AUSTIN, TEXAS 78701-2483, as Defendant DAVID MARC BINNIX's agent for service because Defendant DAVID MARC BINNIX's was a party to a collision while operating a motor vehicle in Texas.

#### **IV. FACTS**

4.01 On October 24, 2019, On that date, Plaintiff ELIDIO NAVA, was stopped for traffic eastbound on 300 W. Airport Freeway when Defendant Binnix failed to control his speed and rear-ended Plaintiff's vehicle. Binnix was in the course and scope of his employment with The Boeing Company at the time of the collision. The collision caused Plaintiff severe and life altering injuries.

#### **V. LIABILITY**

5.01 The Boeing Company is grossly and ordinarily negligent for the following reasons:

- a. Negligent in its hiring, training, supervision, and retention policies with regard to its driver, Binnix;

b. Binnix's negligence is imputed on The Boeing Company by the acts and omissions of its employee, Binnix, through their agency relationship with him, and the doctrine of respondeat superior.

5.02 Binnix is grossly and ordinarily negligent for the following reasons:

- a. He failed to keep a proper lookout for the Plaintiff's safety that would have been maintained by a person of ordinary prudence under the same or similar circumstances;
- b. He failed to control speed;
- c. He failed to take proper evasive action that would have been taken by a person of ordinary prudence under the same or similar circumstances;
- d. He failed to remain reasonably attentive to the traffic and other conditions existing on the roadway as a reasonably prudent person would have been under the same or similar circumstances;
- e. He failed to pay requisite attention as a reasonably prudent driver would;
- f. He failed to timely apply his brakes; and
- g. He ignored and breached applicable laws and regulations regarding the operation of his vehicle and thereby caused the collision – to wit, he failed to maintain a lane of traffic and only change when safe.

5.03 The acts and omissions complained of proximately caused the Plaintiff's injuries.

## **VI. DECLARATORY RELIEF**

6.01 Plaintiff seeks a declaration that Binnix, while in the course and scope of his employment with The Boeing Company was negligent and grossly negligent and thereby caused injuries to the Plaintiff in the instant case.

## **VII. DAMAGES**

7.01 As a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiff were caused to suffer severe bodily injuries and damages as set out below.

- a. Reasonable expenses for necessary medical care in the past and future;
- b. Lost wages and/or lost earning capacity, past and future;
- c. Pain and suffering in the past and future;
- d. Physical impairment in the past and future;
- e. Disfigurement, past and future;
- f. Defendants' conduct when viewed objectively, involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others, and of which each Defendant had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety and welfare of others, specifically including Plaintiff, as such, Plaintiff additionally seek exemplary damages as allowed by Chapter 41 of the Texas Civil Practice & Remedies Code.

## **PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully prays that the Defendants be cited to appear and answer herein, and that upon final hearing of the cause, judgment be entered for the Plaintiff against the Defendants, jointly and severally, for damages in an amount within the jurisdictional limits of the Court, together with pre-judgment and post-judgment interest at the maximum rate allowed by law, costs of court, and such other and further relief to which the Plaintiff may show himself justly entitled.

Respectfully submitted,  
**RAD LAW FIRM**  
BY: /s/ Daryoush Toofanian  
DARYOUSH TOOFANIAN  
State Bar No. 24039801  
8001 LBJ Fwy, Suite 300  
Dallas, Texas 75251  
Phone (972) 661-1111  
Fax (972) 661-3537  
[efileDT@radlawfirm.com](mailto:efileDT@radlawfirm.com) (service of documents)  
[dtoofanian@radlawfirm.com](mailto:dtoofanian@radlawfirm.com) (communications)  
**ATTORNEY FOR PLAINTIFF**